

U.S. Department of Justice



United States Attorney  
Eastern District of New York

CP:TK  
F.#2010R00420

271 Cadman Plaza East  
Brooklyn, New York 11201

August 31, 2011

Hon. Frederic Block  
United States District Court  
Brooklyn Federal Courthouse  
225 Cadman Plaza, East  
Brooklyn, New York 11201

Re: United States v. Pedro Espada, Jr., et al.  
Criminal Docket No. 10-985 (FB)

Dear Judge Block:

The government writes regarding the status conference scheduled for tomorrow at 3:00 p.m. We anticipate that defense counsel will seek an adjournment of trial, which we do not oppose. Both sides are available to start trial in early January, if that time is convenient for the Court. As explained below, there was a problem with the electronic discovery, which we identified and corrected this morning.

When agents executed a search warrant at Soundview, the defendants' place of business, they imaged (copied) on site seven computers (the "seven computers"). The agents left the seven computers at Soundview. On February 1, 2011, the government provided to defense counsel hard drives that we believed contained all of the data agents had copied from the seven computers (the "hard drives"). The hard drives were created by an IT specialist from one of the investigating law enforcement agencies. We made the IT specialist available to answer counsel's questions about the hard drives. Also, to help focus defense counsel on the proof that we considered particularly relevant, we provided defense counsel with a set of approximately 250 key documents (the "hot documents"). The hot documents included material printed from our copies of the seven computers.

In or about early August, defense counsel informed us that they had sent the hard drives to a vendor for purposes of putting them into a readable format, and were having difficulty viewing the data. We arranged for defense counsel to speak with two case agents, who helped counsel view the material on the hard drives. Last week, counsel informed us that once they were able to read the data, they discovered that some of the hot documents were not on the hard drives.

To get to the bottom of this, we provided defense counsel with a list of all the electronic files in our possession. This morning, we arranged for a member of defense counsel's staff to meet with the IT specialist. The IT specialist inspected the hard drives, and determined they did not contain a significant amount of the seven computers. The missing data included the computer files of the defendant and anticipated government witnesses. The IT specialist provided a corrected hard drive on the spot.

We expect defense counsel to state that they need to review the corrected hard drive in order to prepare adequately for trial. We agree. We regret this error, and apologize for the inconvenience we have caused the Court and defense counsel.

For the foregoing reasons, we will not oppose any request for an adjournment by defense counsel.

Very truly yours,

LORETTA E. LYNCH  
United States Attorney

By:       /s/        
Carolyn Pokorny  
Roger Burlingame  
Todd Kaminsky  
Assistant U.S. Attorneys

cc: Defense counsel (via ECF and email)